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Administration of justice at the United Nations

Administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2003 and 2004; and statistics on the disposition of cases and the work of the Panel of Counsel

Report of the Secretary-General

Summary

The present report is submitted in response to the request of the General Assembly in section XI, paragraph 5, of its resolution 55/258, that the Secretary-General report to it on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/59/70) provided information on the outcome of the work of the Board for 2002 and 2003. The present report provides information on the work of all Joint Appeals Boards for 2004. For comparative purposes, the present report further contrasts the 2004 data with that from 2003. In addition, the report also provides information on the disposition of cases and the work of the Panel of Counsel for 2004, pursuant to a request by the General Assembly in its resolution 57/307.

* A/60/50 and Corr.1.

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I. Introduction

1. In section XI, paragraph 5, of its resolution 55/258, the General Assembly requested the Secretary-General to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/59/70) provided information on the work of all Joint Appeals Boards for 2002 and 2003. The present report provides information and numerical data on the work of the Boards for 2004.

2. In paragraph 21 of its resolution 57/307, the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/59/449) provided information on the disposition of cases and work of the Panel of Counsel for 2003. The present report provides such information for 2004.

II. Outcome of the work of the Joint Appeals Board

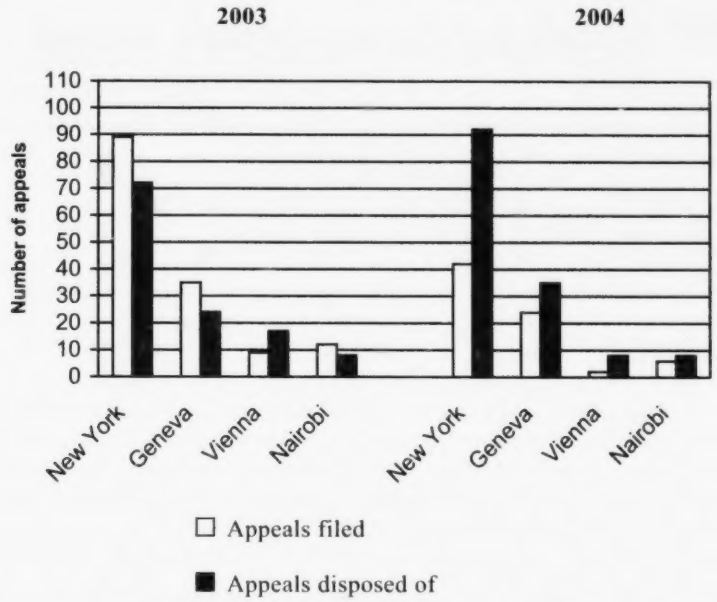
Comparison of JAB cases between 2003 and 2004

3. Table 1 below sets out information, in both numerical and graphic form, on the work of the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2003 and 2004 by providing the number of appeals and suspension of action cases filed and disposed of[1] during those years.

Table 1
Number of appeals and suspension-of-action cases filed and disposed of by all Joint Appeals Boards in 2003 and 2004

Standing Joint Appeals Boards	*2003*	*2004*	*Variance*	*Percentage of variance*
New York: appeals filed	89	42	-47	-53
New York: appeals disposed of	72	92	+20	+28
Geneva: appeals filed	35	24	-11	-31
Geneva: appeals disposed of	24	35	+11	+46
Vienna: appeals filed	9	2	-7	-78
Vienna: appeals disposed of	17	8	-9	+53
Nairobi: appeals filed	12	6	-6	-50
Nairobi: appeals disposed of	8	8	—	No change

[1] The term "disposed of" refers to appeals with respect to which the Board has completed its involvement. The figures may include appeals that, though filed during a previous year, were disposed of in subsequent years owing to an existing backlog. This explains why the number of appeals disposed of is at times higher than the number of appeals filed.



4. As can be seen from the figures presented in table 1, there was a noticeable decrease in the number of appeals filed with the Joint Appeals Boards during 2004: 47 fewer appeals were filed with the New York Board (a decrease of 53 per cent); 11 fewer appeals were filed with the Geneva Board (a decrease of 31 per cent); 7 fewer appeals with the Vienna Board (a decrease of 78 per cent); and 6 fewer appeals with the Nairobi Board (a decrease of 50 per cent).

5. Another difference between the two periods concerns the number of cases disposed of by the Joint Appeals Boards during 2004: the New York Board disposed of 28 per cent more cases; the Geneva Board of 46 per cent more cases; there was no change for the Nairobi Board; and a decrease of 53 per cent in the number of cases disposed of by the Vienna Board.

Pending appeals

6. Table 2 below shows the number of pending appeals and disciplinary cases at the end of 2004. As is shown in the table, Vienna had 2 pending appeals. The Nairobi Board had 14 pending appeals whereas the Geneva Board had 35 pending appeals and 3 pending disciplinary cases. With 69 pending appeals, the New York Board continues to have the highest number of pending appeals, although there was a noticeable decrease in its backlog from 117 cases in 2003 to 69 by the end of 2004. The New York Board also had 9 pending disciplinary cases at the end of 2004.

Table 2
Number of pending appeals and disciplinary cases by end of 2004

Standing Joint Appeals Boards	*Appeals*	*Disciplinary cases*
New York	69	9
Geneva	35	3
Vienna	2	—
Nairobi	14	—

Disciplinary cases

7. Disciplinary cases are also handled by the secretariats of the Joint Appeals Boards and are always considered on a priority basis. In 2004, the New York Joint Disciplinary Committee considered six disciplinary cases, the Geneva Committee considered four and the Nairobi Committee considered one. No cases were submitted to the Vienna Committee in 2004.

Decisions taken by the Secretary-General on Joint Appeals Board appeals

8. Table 3 provides information, in both numerical and graphic forms, on the decisions taken by the Secretary-General on reports of the Joint Appeals Board for 2003 and 2004.

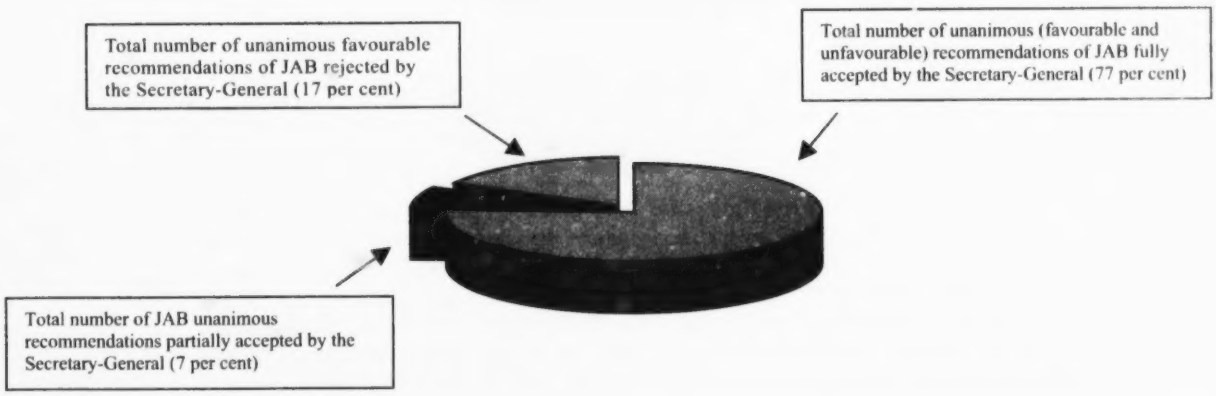
Table 3

Breakdown of decisions taken by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action in 2003 and 2004

2003

JAB reports from	*Total number of decisions on JAB reports*	*Total number of unanimous recommendations of JAB*	*Total number of unanimous recommendations of JAB fully accepted by the Secretary-General*	*Total number of unanimous recommendations of JAB partially accepted by the Secretary-General*	*Total number of unanimous favourable recommendations of JAB rejected by the Secretary-General*	*Total number of unanimous unfavourable recommendations of JAB*
New York	66	65	49 (75%)	6 (9%)	11 (18%)	40 (62%)
Geneva	28	27	23 (85%)	0	4 (15%)	18 (66%)
Vienna	6	6	3 (50%)	0	3 (50%)	3 (50%)
Nairobi	8	8	7 (88%)	1 (13%)	0	3 (38%)
Total	**108**	**106**	**82 (77%)**	**7 (7%)**	**18 (17%)**	**64 (60%)**

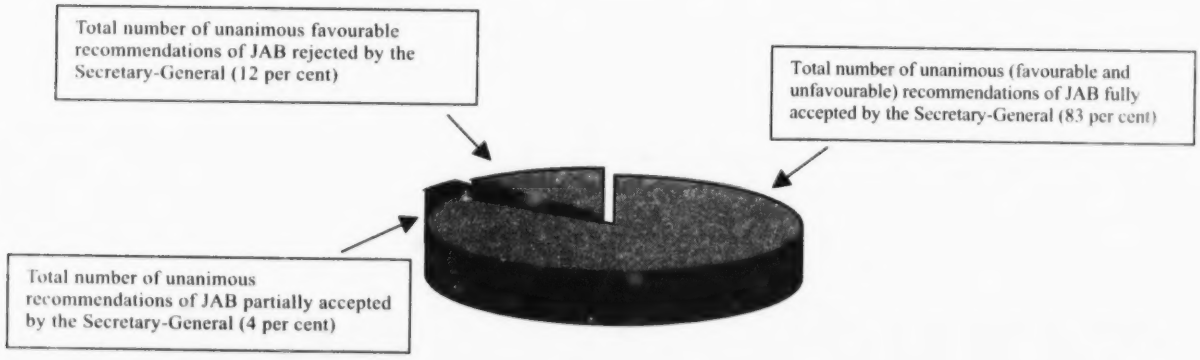
84% (full and partial acceptances)


Total number of unanimous favourable recommendations of JAB rejected by the Secretary-General (17 per cent)
Total number of unanimous (favourable and unfavourable) recommendations of JAB fully accepted by the Secretary-General (77 per cent)
Total number of JAB unanimous recommendations partially accepted by the Secretary-General (7 per cent)

2004

JAB reports from	*Total number of decisions on JAB reports*	*Total number of unanimous recommendations of JAB*	*Total number of unanimous recommendations of JAB fully accepted by the Secretary-General*	*Total number of unanimous recommendations of JAB partially accepted by the Secretary-General*	*Total number of unanimous favourable recommendations of JAB rejected by the Secretary-General*	*Total number of unanimous unfavourable recommendations of JAB*
New York	60	59	48 (81%)	3 (5%)	7 (12%)	37 (63%)
Geneva	15	15	14 (93%)	0	1 (7%)	11 (73%)
Vienna	5	5	4 (80%)	0	1 (20%)	3 (60%)
Nairobi	5	5	4 (80%)	0	1 (20%)	2 (40%)
Total	**85**	**84**	**70 (83%)**	**3 (4%)**	**10 (12%)**	**53 (63%)**

87% (full and partial acceptances)


Total number of unanimous favourable recommendations of JAB rejected by the Secretary-General (12 per cent)
Total number of unanimous (favourable and unfavourable) recommendations of JAB fully accepted by the Secretary-General (83 per cent)
Total number of unanimous recommendations of JAB partially accepted by the Secretary-General (4 per cent)

9. As can be seen from the figures for 2003 and 2004 presented in table 3 above, the percentage of full and partial acceptances by the Secretary-General of the unanimous recommendations of the Joint Appeals Board showed a slight increase in 2004 (84 per cent in 2003 and 87 per cent in 2004; columns 3 and 4). As for the percentage of rejections by the Secretary-General of unanimous recommendations of the Joint Appeals Board that were favourable to the appellants (column 5), it was relatively low in both periods (17 per cent in 2003 and 12 per cent in 2004).

10. This pattern is in line with the stated policy of the Secretary-General, which is normally to accept unanimous recommendations unless there is a compelling reason

of law or policy not to do so. In all such instances, the decisions of the Secretary-General provide detailed reasons for such rejection, which in most cases is attributable to the incorrect application of law or policy by the Joint Appeals Board or inadequate fact-finding that is not supported by the available evidence. With the increased training for the members of the Joint Appeals Board/Joint Disciplinary Committee in the applicable law and policies of the Organization and the availability of the Web-based repository of the recent jurisprudence of the Administrative Tribunal (encompassing jurisprudence on judgements rendered from 1980 onwards), the Secretary-General trusts that unanimous recommendations will be more reliably supported by the evidence, as well as reflective of the applicable law, and that, consequently, the percentage of acceptable recommendations will rise. The Secretary-General will, however, still have the discretionary authority to reject unanimous recommendations of the Board, should he find that it is in the interest of the Organization to do so.

III. Statistics on the disposition of cases and work of the Panel of Counsel

11. During 2004, current or former staff members requested the assistance of the Panel of Counsel in 224 new cases. As is depicted in table 4 below, most of those cases concerned promotion (14 per cent); non-renewal and/or termination of contracts (23 per cent); and disciplinary matters (17 per cent), the latter being highly labour-intensive.

Table 4

Subject matter and number of cases dealt with by the Panel of Counsel during 2004

13. As can be seen in table 6 below, of the 224 new cases in 2004, 121 (or 54 per cent) were dealt with informally and 103 (or 46 per cent) went through the formal appeals process.

Table 6
Informal resolution versus formal appeals: new cases in 2004

Total number of cases: 224

14. Owing to the sheer volume of staff requesting assistance from the Panel of Counsel and the limited resources available to it at present, the quality of representation and advice offered to staff necessarily suffers, and this is particularly true for staff in field locations. In addition, opportunities for conciliation and settlement may not be pursued to the fullest extent owing to severe time and resource limitations. It is expected that with the addition of a P-4 legal officer post, proposed under the support account, a higher number of cases will be settled informally.